

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8097 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RANJANBEN JAYENDRABHAI PATEL

Versus

AIRPORT AUTHORITY OF INDIA

Appearance:

MR HR PRAJAPATI for Petitioner
MR KOGJE for MR SV RAJU for Respondent No.1 -
Airport Authority of India.
MR PK SHUKLA, ld.AGP - for Respondent No.2 - State
of Gujarat.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 01/05/2000

ORAL JUDGEMENT

Rule. Mr.Kogje waives the service of Rule on
behalf of respondent no.1 and Mr.P.K.Shukla, ld.AGP
waives the service of Rule on behalf of respondent no.2.

2. The petitioner claims that she has filed this
petition in representative capacity on behalf of
similarly situated persons in the area nearby Airport of

Ahmedabad. It is stated that in the year 1950, the Government had allotted certain plots for residential purposes to the refugees who migrated from Pakistan. On these plots, they constructed small houses in the year 1996 as per the plans approved by the respondent no.2 Collector, Ahmedabad. The petitioner had purchased one such house in 1996 by registered sale deed. It is alleged that the respondent no.1, i.e. Airport Authority of India has tried to block the only access to the petitioner and other similarly situated persons in the year 1998 in such a manner that it would block the way of the petitioner and other residents of the area. A prayer has been made in the petition that the threatened action of the respondent no.1 to block the way providing only access to the residential house of the petitioner be stayed and the Airport Authority of India be restrained from taking any action in breach of the fundamental and easementary rights of the petitioner, the respondent no.1 be directed not to block the way etc.

3. This petition dated 11th October 1999 was filed in this Court on 13th October 1999. On 14th October 1999, the notice was issued. It appears that an affidavit-in-reply dated 1st November 1999 has been filed by the contesting party, i.e. Airport Authority of India to which an affidavit-in-rejoinder dated 1st May 2000 has been filed. The xerox copy of the letter filed along with the petitioner's rejoinder dated 1st May 2000 shows that the Member of Parliament had sent a letter to the Airport Authority on 19th May 1998. This letter was responded by the Airport Director on 9th July 1999. The contents of this letter dated 9th July 1999 show that a joint survey was carried out in Sardarnagar residential area of the Airport land. The matter was discussed with the Regional Head Quarters, Mumbai and it was advised that it would be preferable to provide 20 ft. road by the State Government before Airport Authority of India agrees to leave this space to provide for passage and emergencies transportation services. This was considered to be essential so that the Airport land (public property) is not encroached by the private parties. The Airport Director requested the concerned Member of Parliament to take up the matter with the State Government official for early provision of road so that it could also be used for patrolling from outside from the boundary wall proposed to be provided very shortly.

4. From the pleadings of the parties as contained in para 8 of the affidavit-in-reply dated 1st November 1999 and para 2 of the affidavit-in-rejoinder dated 1st May 2000, it appears that there is a dispute between the

parties about the fact of encroachment of the land by the petitioner and other similarly situated persons.

5. In any view of the matter, in the facts and circumstances of this case, the controversy is to be decided by the State Government as has been pointed out in the letter dated 9th July 1999 by the Airport Director. The State Government, through the respondent no.2, i.e. the Collector, Ahmedabad, may take into consideration the letter dated 9th July 1999, the contents of which are reproduced as under:

"E-I LR 99 10573-75 Dated: 09.07.1999

To
Shri Harin Pathak,
Honourable Member of Parliament
(Lok Sabha),
"Madhuram",
Prankunj Society,
Ahmedabad - 380 028.

Sir,

This has reference to your letter dated 19.05.1998 and joint survey carried out in Sardarnagar residential area of airport land. The matter was discussed with our Regional Hdqrs., Mumbai. It has been advised that it would be preferable to provide 20 ft. road by the State Government before AAI agrees to leave this space to provide for passage and emergencies transportation services. This is considered to be essential so that the Airport land (public property) is not encroached by the private parties.

I would request you to kindly take up the matter with State Government official for early provision of road so that it could also be used for patrolling from outside from the boundary wall proposed to be provided very shortly.

Yours faithfully,

Sd/-
(R.C. CHITKARA)
AIRPORT DIRECTOR."

After taking into consideration the advice to which the reference has been made in this letter, the State

Government shall take appropriate decision in this regard in accordance with law and notify the same and would also act accordingly. This Special Civil Application is decided in the terms as aforesaid and the Rule is made absolute. No order as to costs. Direct service is permitted.

(M.R. Calla, J.)

Sreeram.